

APPEAL NO. 032906
FILED DECEMBER 29, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on October 7, 2003. The hearing officer resolved the disputed issues by determining that the compensable injury of _____, includes the keratoconjunctivitis sicca of the eyes after August 5, and that from August 21, 2002, through the date of the CCH, the respondent (claimant) had disability. The appellant (carrier) appealed, disputing both the extent-of-injury and disability determinations. The claimant responded, urging affirmance.

DECISION

Affirmed.

The parties stipulated that the carrier has accepted a _____, compensable injury to the claimant's bilateral eyes. At issue was whether the claimant's compensable injury extended to include the keratoconjunctivitis sicca of the eyes after August 5, 2002, and whether the claimant had disability resulting from the compensable injury. These issues presented questions of fact for the hearing officer to resolve. The hearing officer noted that she found the claimant's testimony and medical records as to her continued symptomatology and problems associated with her original injury of _____, persuasive. The claimant testified that she resigned her position with the employer on September 23, 2002, in part because of the recommendations of her doctor and because she knew she could no longer work with the laminate airflow that her position required.

The hearing officer is the trier of fact and is the sole judge of the relevance and materiality of the evidence and of the weight and credibility to be given to the evidence. Section 410.165(a). Where there are conflicts in the evidence, the hearing officer resolves the conflicts and determines what facts the evidence has established. The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer was persuaded that the compensable injury extended to include the keratoconjunctivitis sicca of the eyes after August 5, 2002, and that the claimant sustained her burden of proving that her compensable injury was a cause of her inability to obtain and retain employment at her preinjury wage despite the fact that her employment was terminated. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb the disability determination on appeal. Cain, *supra*.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **AMERICAN & FOREIGN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICES COMPANY
701 BRAZOS, SUITE 1050
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge